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PH: 91-40-24553602.

India.

Date: Dec 1, 2004

Application no.	Filing date	Inventor
10/042,433	Jan10th 2002	Gopinath B.

TO,
The Commissioner for Patents,
Alexandria, Virginia, USA.

Attn: Mr. Kenneth E. Peterson, Examiner.

Dear Sir,

I have received your office action d. Nov 12, 2004 wherein you have made a final action of rejecting all claims under various sections.

This fax is not a formal reply. It is only a request for clarification regarding rules for my proposed actions. I request a reply as I am a small entity and not in a position to engage an American patent attorney.

I am confident about the novel features of my invention claimed in claim nos 14, 15 and that it is significantly different from the two references you have cited. I will make my submission regarding this in my formal reply.


Regarding the rejection based on the delayed amendment with new matter (para 2 page 2 of your letter d. Nov. 12) though I can furnish genuine grounds for acceptance of the amendment, I am not certain about their acceptance by the examiner. (Briefly the reasons are 1. a delay of 11 months due to the missing USPTO letter of Feb 8, 2002, received by me only on 24 Jan, 2003 regarding corrections to drawings 2. My amendment was filed on 12 Feb 2003 and the first office action was on May 23, 2003. According to 37 CFR 1.115 preliminary amendments are received in the office before the mail date of first office action. 3. The matter is not new as it is another embodiment of the original Genus claim no. 1. This point is arguable and hence I am not sure about my grounds on this point.)

In view of the above I propose to make a new application as per 35 USC. 120, for my invention (rejected by the examiner as new matter). 35 USC. 120 allows the earlier filing date of disclosure (in this case 12-Feb-2003). I feel this is a better option as I can overcome rejection due to new matter. In the new application I will give sufficient novel features and differences in structure from the two references cited in the rejection.

I feel a request for continued examination under 37 CFR 1.114 or an appeal are likely to fail due to new matter clause. Hence I have chosen the path mentioned above.

I request a reply as to filing a new application for this invention under 35 USC. 120 is in order as per USPTO rules. I will telephone you after 4 / 5 days so that you would have received the fax and have time for studying the case.

Yours truly,


B. Gopinath.

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